

IP 05-1362-C B/S Pearson v Ford Motor Company  
Judge Sarah Evans Barker

Signed on 11/16/05

**NOT INTENDED FOR PUBLICATION IN PRINT**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

CLIFFORD J. PEARSON Jr.,	)	
	)	
Plaintiff,	)	
vs.	)	NO. 1:05-cv-01362-SEB-VSS
	)	
FORD MOTOR COMPANY,	)	
	)	
Defendant.	)	

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

CLIFFORD J. PEARSON, Jr., as Legal	)	
Guardian And Next Friend of MP, A Minor,	)	
Plaintiff,	)	
	)	
vs.	)	1:05-cv-1362-SEB-VSS
	)	
FORD MOTOR COMPANY,	)	
Defendant.	)	

**ENTRY GRANTING DEFENDANT’S MOTION TO DISMISS**

This matter comes before the Court on Defendant Ford Motor Company’s (“Ford”) Motion to Dismiss Plaintiff Clifford J. Pearson, Jr.’s (“Mr. Pearson”) Complaint alleging Indiana state law claims of negligence, wanton misconduct, and products liability against Ford. Mr. Pearson’s claims relate to a July 6, 2003, accident involving a Ford Explorer driven by Clifford J. Pearson, Mr. Pearson’s father, which injured MP, Mr. Pearson’s minor child. Ford does not dispute Mr. Pearson’s allegations concerning the accident; however, Ford asserts that all of Mr. Pearson’s claims are barred by Indiana’s two-year statute of limitations for negligence and product liability claims as contained in Indiana Code § 34-20-3-1. Mr. Pearson does not dispute that the explicit language of IC 34-20-3-1 would bar his claims; however, he contends that under the Privileges and Immunities Clause of the Indiana Constitution<sup>1</sup> the statute of limitations period is unconstitutional as applied to minors, and MP in particular, and thus his claims should not be time-barred. We decline to rule that IC 34-20-3-1 unconstitutional under the Indiana Constitution and, thus, GRANT Defendant’s Motion to Dismiss.

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<sup>1</sup> IND. CONST. Art I, Sec. 23.

### Legal Analysis

The only issue before us is whether the statute of limitations contained in IC 34-20-3-1 as applied to minors is unconstitutional under the Privileges and Immunities Clause of the Indiana Constitution.

The clear holdings of prior Indiana state court decisions indicate that the challenged statute of limitations is constitutional. In the case of Orr v. Turco Mfg. Co., Inc., 484 N.E.2d 1300 (Ind. App. 1985), the Indiana Court of Appeals found that IC 33-1-1.5-5, the predecessor statute to IC 34-20-3-1, survived a challenge raised under another provision of the Indiana Constitution.<sup>2</sup> The Court of Appeals stated:

[The Indiana Supreme] Court held in Sherfey v. City of Brazil, (1937) 213 Ind. 493, 13 N.E.2d 568, that the Legislature is not under mandate from the constitution to suspend the obligation of statutes of limitation in the case of infancy or incapacity.

Orr v. Turco Mfg. Co., Inc., 484 N.E.2d 1300, 1302 -1303 (Ind. App. 1985). As of the date of this opinion, the Orr decision has not been overturned or distinguished by Indiana State courts.

Mr. Pearson asks us to disregard the clear prior decisions of Indiana courts and, instead, forge new legal ground by invalidating the Indiana statute of limitations period as applied to minors. For support of his novel interpretation of the Indiana Constitution, Mr. Pearson cites the reasoning of Collins v. Day, 644 N.E.2d 72 (Ind. 1994) (affirming the dismissal of a worker's compensation claim); and Ledbetter v. Hunter, 822 N.E.2d 982 (Ind. 2004) (invalidating the medical malpractice statute of limitations as applied to minors, a decision thereafter vacated by the Indiana Supreme Court). Neither of these cases is controlling, or even persuasive, authority to establish that Indiana Courts would invalidate the challenged statute of limitations as applied

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<sup>2</sup> IND. CONST., Art. I Sec. 12.

to minors. The latter decision, Ledbetter, has been vacated by the Indiana Supreme Court and thus “has no precedential value.” Meyer v. Biedron, 667 N.E.2d 752, 753 (Ind. 1996). The former case, Collins, is not directly on point, in that it held the exclusion of agricultural employees from the Workers Compensation Act did not violate the Indiana Privileges and Immunities Clause. Were we inclined to extend the reasoning in Collins to the statute of limitations at issue in this case, it is not altogether clear, or even probable, that Indiana Courts would invalidate the relevant statute of limitations as applied to minors. Nonetheless, our role as a federal court is not to speculate on yet unresolved, even unaddressed, questions of state constitutional interpretation. Such issues are properly left to the state courts to resolve and, indeed, the now pending Indiana Supreme Court decision in Ledbetter may well decide the issue.<sup>3</sup>

In initiating this action, Mr. Pearson chose to bring suit in federal court and, thus, he must content himself with the limitations and remedies available in his forum of choice. Accordingly, being bound by the clear language of the Indiana Code and state court precedent, Mr. Pearson’s claims are barred by IC 34-20-3-1 and must therefore be dismissed.

### Conclusion

As explained above, the Mr. Pearson’s claims are barred by the two year statute of limitations contained in IC 34-20-3-1. Accordingly, we GRANT the Ford’s Motion to Dismiss

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<sup>3</sup> Mr. Pearson also briefly argues that, pursuant to Martin v. Richey, 711 N.E.2d 1273 (Ind. 1999) (extending the Collins reasoning), we should find the statute of limitations unconstitutional as applied to the minor MP in this case. Essentially, Mr. Pearson is arguing on behalf of MP that MP was disadvantaged since Mr. Pearson failed to timely file a claim on her behalf. While we sympathize with MP, Mr. Pearson’s failure to timely file her claim does not grant us license to disregard the clear language of IC 34-20-3-1 or the state court decisions that have explicitly upheld the application of statute of limitations to minors.

with prejudice. IT IS SO ORDERED.

Date: \_\_\_\_\_

\_\_\_\_\_  
SARAH EVANS BARKER, JUDGE  
United States District Court  
Southern District of Indiana

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